

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Robert A. Kunshier,

File No. 16-cv-792 (ECT/TNL)

Petitioner,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Tim Walz, *as Governor of the State of
Minnesota*;
Jodi Harpstead, *as Commissioner of the
Minnesota Department of Human Services*;¹
and The State of Minnesota,

Respondents.

Magistrate Judge Tony N. Leung issued a Report and Recommendation on December 8, 2022. ECF No. 42. No party has objected to that Report and Recommendation, and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 42] is **ACCEPTED**.
2. Petitioner Robert A. Kunshier's application to proceed *in forma pauperis* [ECF No. 2] is **DENIED**.

¹ Mark Dayton and Emily Johnson Piper were named by Kunshier as respondents to this action in their official capacities as Governor of Minnesota and Commissioner of the Minnesota Department of Human Services, respectively. Those respondents have been automatically substituted by the current holders of those offices pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

3. Kunshier's motions for appointment of counsel [ECF Nos. 4 & 35] are **DENIED**.

4. Kunshier's motion to lift stay [ECF No. 34] is **DENIED AS MOOT**.

5. Kunshier's motion to determine whether the courts have granted *ex parte* communications to respondents' counsel [ECF No. 38] is **GRANTED** as explained in the Report and Recommendation.

6. No certificate of appealability shall issue.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 30, 2022

s/ Eric C. Tostrud

Eric C. Tostrud
United States District Court